

FILED
JOHN J. HERNAN

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

OCT 10 AM 11:22

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
CINCINNATI

United States of America)

v.)

Luis Garay-Contreras)
a/k/a Jose Luis Garay-Contreras)
a/k/a Jose Manzano-Verde)

Case No.

1:13MJ -631

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 18, 2013, in the county of Hamilton in the
Southern District of Ohio, the defendant(s) violated:*Code Section*

8 U.S.C. § 1326(a), (b)(2)

Offense Description

Defendant is an alien who has been excluded, deported, or removed from the United States following a conviction for an aggravated felony, and thereafter, he was found in the United States without the express consent of the Attorney General or Secretary of Homeland Security to reapply for admission to the United States.

This criminal complaint is based on these facts:

See attached affidavit which is incorporated herein.

☒ Continued on the attached sheet.
Complainant's signatureBrandon Bowyer, Deportation Officer
Printed name and title

Sworn to before me and signed in my presence.

Date: October 10, 2013
Judge's signatureCity and state: Cincinnati, OhioKaren L. Litkovitz, United States Magistrate Judge
Printed name and title

A F F I D A V I T

I, Brandon Bowyer, being duly sworn, do hereby depose and say:

1. I am a Deportation Officer ("DO") with the United States Department of Homeland Security ("DHS"), U.S. Immigration and Customs Enforcement ("ICE"). I have been a DO with ICE, formerly known as the Immigration and Naturalization Service ("INS"), since May 2012. Prior to working as a DO for ICE, I worked as an Immigration Enforcement Agent ("IEA") with ICE, from July 2007 to May 2012. I am currently assigned to the Cincinnati Enforcement and Removal Operations Unit.

2. This affidavit is made in support of a criminal complaint and arrest warrant for LUIS GARAY-CONTRERAS ("GARAY-CONTRERAS"), aka: Jose Luis Garay-Contreras, charging him with violating Title 8, United States Code, Section 1326(a) and (b)(2): Illegal Alien Found in the United States Following Deportation. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from other law enforcement agents and witnesses. This affidavit is intended to show that there is probable cause for the requested complaint and arrest warrant and does not purport to set forth all of my knowledge of, or investigation into, this matter.

3. On September 18, 2013, GARAY-CONTRERAS, a previously deported criminal alien, was arrested by the Newtown Police

Department, in the Southern District of Ohio, for speeding, reckless operation of a motor vehicle, driving without a license and marked lanes violation. GARAY-CONTRERAS was brought into ICE administrative custody on or about October 3, 2013, pursuant to an immigration detainer that was placed by Michael Cox, Deportation Officer. On September 18, 2013, DO Cox placed the detainer on GARAY-CONTRERAS as part of his routine assigned duties to interview suspected criminal aliens in custody at the Hamilton County Justice Center.

4. Based on my training and experience, I know that a DHS "A-File" is a file in which all immigration records are maintained for aliens admitted to or found in the United States. I also know that a DHS A-File usually contains photographs, fingerprints, court records of conviction, and all records relating to deportation or other actions by DHS (or INS) with respect to the subject alien for whom the DHS A-File is maintained.

5. On October 3, 2013, I reviewed DHS A-File XXX-XXX-539, which is maintained for the subject alien "Luis Garay-Contreras." The A-File contained, among other things, the following documents and information:

a. Photographs of the alien subject to whom DHS A-File XXX-XXX-539 corresponds. I compared these photographs to the ICE booking photograph of GARAY-CONTRERAS taken on or about

October 3, 2013. These photographs depict the same person. Thus, I determined that DHS A-File XXX-XXX-539 and its contents correspond to GARAY-CONTRERAS.

b. An executed Warrant of Removal/Deportation (Form I-205) indicating that GARAY-CONTRERAS was officially removed and deported from the United States on or about January 17, 2012. I know from my training and experience that a Warrant of Removal/Deportation is executed each time a subject alien is removed and deported from the United States by ICE (and its predecessor agency, INS) and usually contains the subject's photograph, signature, and fingerprint. The executed Warrant of Removal/Deportation in GARAY-CONTRERAS's A-File contains his photograph, signature, and fingerprint.

c. A document, in addition to the Warrant of Removal/Deportation, indicating that GARAY-CONTRERAS is a native and citizen of Mexico. This document includes: a Final Administrative Removal Order dated January 12, 2012, ordering GARAY-CONTRERAS removed to Mexico.

d. A copy of conviction record showing that GARAY-CONTRERAS was convicted on November 1, 2000, of Possession with Intent to Sell/Deliver Cocaine, in the Circuit Court of the Nineteenth Judicial Circuit, St. Lucie County, Florida.

6. On October 3, 2013, I reviewed the printouts of ICE computer indices for GARAY-CONTRERAS. Based on my training and

experience, I know that the ICE computer indices track and document each time an alien is deported from the United States by ICE (or INS) or is granted permission to enter or re-enter the United States. The ICE computer indices confirmed that GARAY-CONTRERAS had been removed and deported on or about the date indicated on the Warrant of Removal/Deportation found in GARAY-CONTRERAS's DHS A-File. The ICE computer indices further indicated that GARAY-CONTRERAS had not applied for or obtained permission from the Attorney General of the United States or his designated successor, the Secretary of Homeland Security, to re-enter the United States legally since GARAY-CONTRERAS had last been deported.

7. Based on my review of GARAY-CONTRERAS's DHS A-File, I determined that his A-File does not contain any record of him ever applying for, or receiving permission from, the Attorney General of the United States or his designated successor, the Secretary of Homeland Security, to legally re-enter the United States. Based on my training and experience, I know that such documentation is required to re-enter the United States legally after deportation, and that if such documentation existed, it would ordinarily be found in GARAY-CONTRERAS's DHS A-File.

8. Based on the foregoing facts, there is probable cause to believe that GARAY-CONTRERAS has violated Title 8, United

States Code, Section 1326(a) and (b)(2): Illegal Alien Found in the United States Following Deportation.



Brandon Bowyer
Deportation Officer- ICE

Subscribed and sworn to before me on this 10th day of October, 2013.



Karen L. Litkovitz
UNITED STATES MAGISTRATE JUDGE